

VZCZCXYZ0010  
RR RUEHWEB

DE RUEHNR #4816/01 3541417  
ZNR UUUUU ZZH  
R 201417Z DEC 07  
FM AMEMBASSY NAIROBI  
TO RUEHC/SECSTATE WASHDC 3963  
INFO RUEHDS/AMEMBASSY ADDIS ABABA 9747  
RUEHDR/AMEMBASSY DAR ES SALAAM 5631  
RUEHDJ/AMEMBASSY DJIBOUTI 4965  
RUEHKM/AMEMBASSY KAMPALA 2459  
RUEHKH/AMEMBASSY KHARTOUM 1751  
RUEHLO/AMEMBASSY LONDON 2507  
RUEHFR/AMEMBASSY PARIS 2432  
RHMFIUU/CDR USCENCOM MACDILL AFB FL  
RHMFIUU/CJTF HOA

UNCLAS NAIROBI 004816

SIPDIS

SENSITIVE  
SIPDIS

LONDON AND PARIS FOR AFRICA WATCHERS

E.O. 12958: N/A  
TAGS: [KDEM](#) [PGOV](#) [PREL](#) [PHUM](#) [KE](#)  
SUBJECT: KENYA ELECTIONS: COUNTDOWN 6: 7 DAYS AWAY

REF: NAIROBI 4803 AND PREVIOUS

¶1. (SBU) SUMMARY: The Steadman Group released its final poll results: 45.5 percent Raila Odinga, 42.7 percent Mwai Kibaki and 9.6 percent Kalonzo Musyoka. Given the vagaries of turnout rates, this makes the election too close to call. Two pro-Kibaki parliamentary candidates in Odinga's Langata constituency have stood down in favor of the candidate of Kibaki's PNU coalition, making the retention of the seat by Odinga more difficult. Most observers still believe Odinga will win the Langata constituency he has represented since 1992, but it is not certain. Vote recounts are initiated only at the level of the polling station. Election petitions concerning the conduct of the election can take years to work their way through the courts. Meanwhile, the candidate initially declared the winner continues in office. END SUMMARY.

FINAL STEADMAN POLL: TOO CLOSE TO CALL  
-----

¶2. (U) The Steadman Group released its final poll on Tuesday, 18 December. Whereas past polls involved interviews of about 2,700 self-identified registered voters, for this final poll Steadman interviewed over 6,000 voters. Steadman accurately predicted the November 2005 referendum and is considered to employ a technically respectable methodology. Their results are 45.5 percent Raila Odinga, 42.7 percent Mwai Kibaki and 9.6 percent Kalonzo Musyoka. Given the vagaries of turnout rates, this makes the election too close to call.

RAILA FACING A TOUGHER FIGHT TO RETAIN LANGATA SEAT  
-----

¶3. (SBU) Raila Odinga's fight to retain his Langata constituency just got a little tougher. Already being forced to campaign harder than expected by PNU's Stanley Livondo, two other pro-Kibaki candidates have withdrawn from their race and endorsed Livondo. Ndura Waruinge (founder of the Mungiki criminal organization and UDP-Kenya candidate) and Karanja Mungai (FORD-Kenya) made the announcement on December 19th at a joint appearance with Livondo at a Nairobi soccer stadium. We have long heard that Waruinge was willing to sell his supporters (primarily residents of the Kikuyu-dominated housing estates outside the Luo-dominated Kibera slum) and lend his "security detail" to Livondo for a steep price. The withdrawals create a unified pro-Kibaki voting bloc behind Livondo. It is unclear that Livondo will

be able to convince his fellow Luhyas in the constituency to back him, since the great majority of Luhyas back home in Western Province are backing Odinga. Most observers still believe Odinga will win the Langata constituency he has represented since 1992, but it is not certain.

#### PRESIDENTIAL ELECTION RE-RUN PROCEDURES

-----

¶4. (U) To be elected President of Kenya, a candidate must fulfill three conditions: 1) be elected to parliament, 2) obtain 25 per cent of the vote in 5 of the 8 provinces, and 3) obtain the highest number of votes for president.

¶5. (U) If a presidential candidate fails to win a parliamentary seat, he is eliminated and can not assume the Presidency. In that event, the presidential candidate that fulfills all three conditions and who polls the most votes is declared President.

¶6. (U) If no presidential candidate fulfills all three conditions, a re-run election is held between the two presidential candidates with the highest number of votes for President who have been elected to parliament. ECK has budgeted for this eventuality, but we doubt the issue will arise as Kibaki is likely to clear the hurdle of 25 percent support in 5 of the 8 provinces.

#### ELECTIONS RECOUNTS AND PETITIONS

-----

¶7. (U) Under Kenyan Law, a candidate or his/her agent may request a ballot recount at a polling station no more than twice. The law does not permit requests for recounts at a level greater than an individual polling station. However, any voter or candidate may contest the conduct of an election through an Elections Petition, which must be filed in court no more than 28 days after the election results are announced in the Official Gazette. The law provides no deadline for the court hearing the petition to decide the case. Petitions can drag on for years, as happened in the wake of the 2002 elections. In the meantime, the candidate initially declared the winner continues in office.

RANNEBERGER